

Chapter 3 Federalism

■ WHO GOVERNS?

1. Where is sovereignty located in the American political system?
2. How is power divided between the national government and the states under the constitution?

■ TO WHAT ENDS?

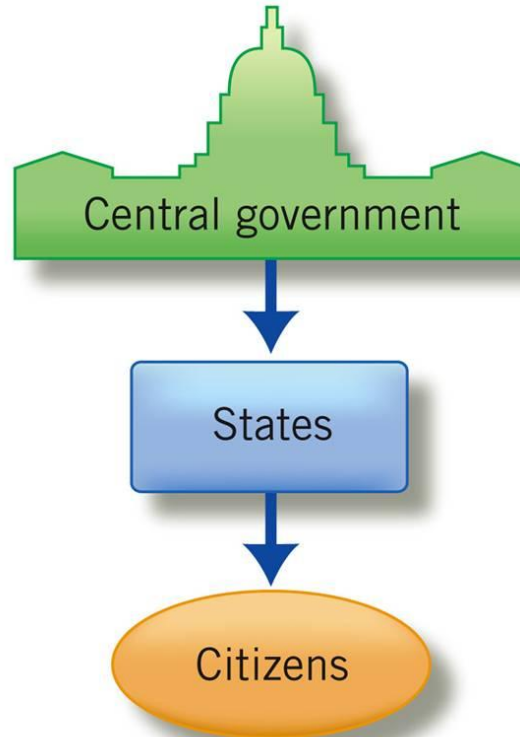
1. What competing values are at stake in federalism?
2. Who should decide which matters ought to be governed mainly or solely by national laws?

Why Federalism Matters

- Federalism is a system in which the national government shares power with state/local governments.
- State governments have the authority to make final decisions over many governmental actions.
- The most persistent source of political conflict is between national and state governments.

Figure 3.1 Lines of Power in the Federal System of Government

UNITARY SYSTEM

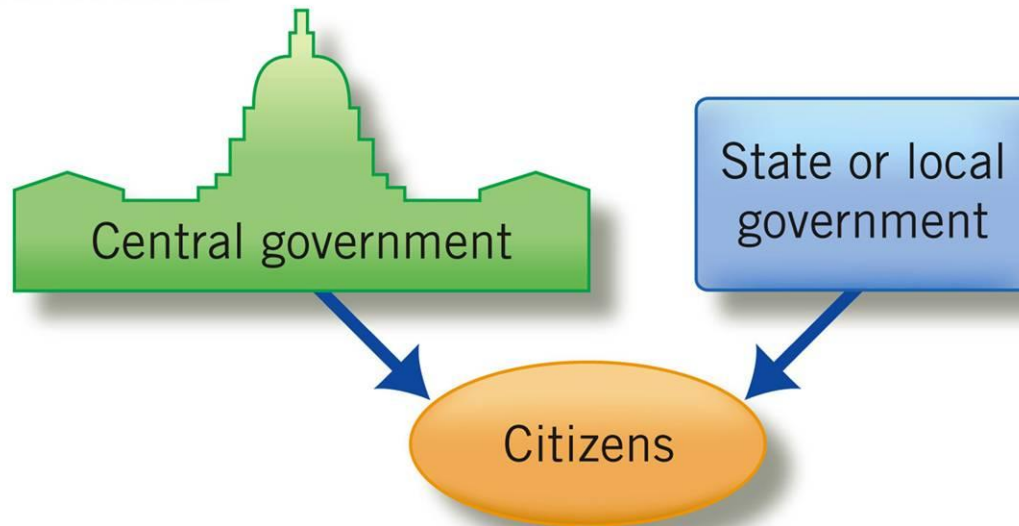


Power centralized.

State or regional governments derive authority from central government. Examples: United Kingdom, France.

Figure 3.1 Lines of Power in the Federal System of Government

FEDERAL SYSTEM



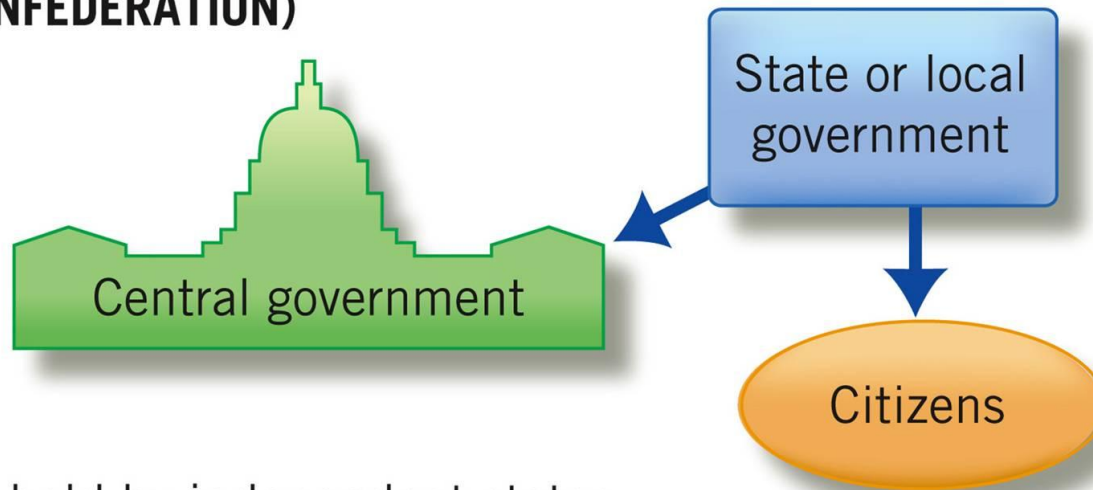
Power divided between central and state or local governments. Both the government and constituent governments act directly upon the citizens.

Both must agree to constitutional change.

Examples: Canada, United States since adoption of Constitution.

Figure 3.1 Lines of Power in the Federal System of Government

CONFEDERAL SYSTEM (or CONFEDERATION)



Power held by independent states.

Central government is a creature of the constituent governments.

Example: United States under the Articles of Confederation.

The Founding

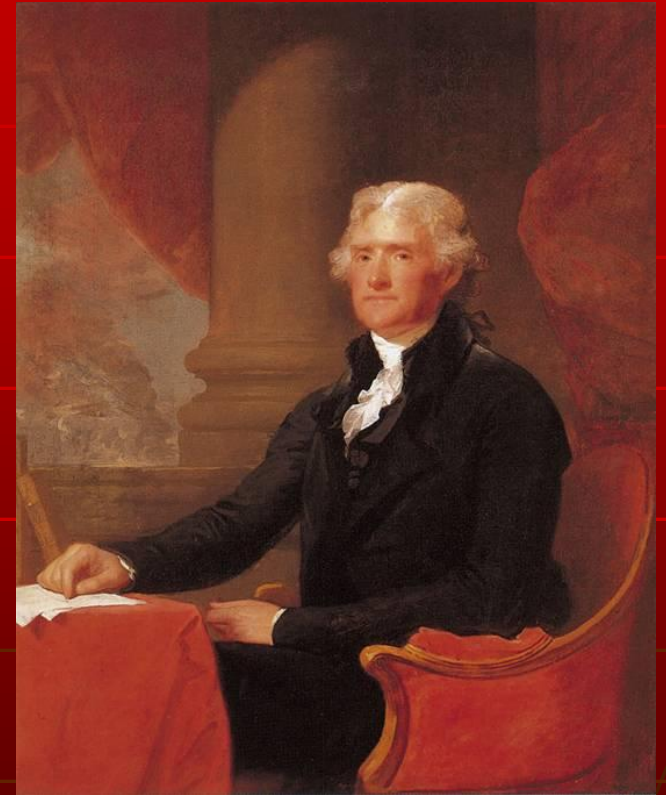
- A Bold New Plan: A “federal republic” for which there was no precedent
- Elastic Language

Congress shall have the power to “make all laws which shall be necessary and proper for carrying into execution the foregoing powers.”

-from Article I

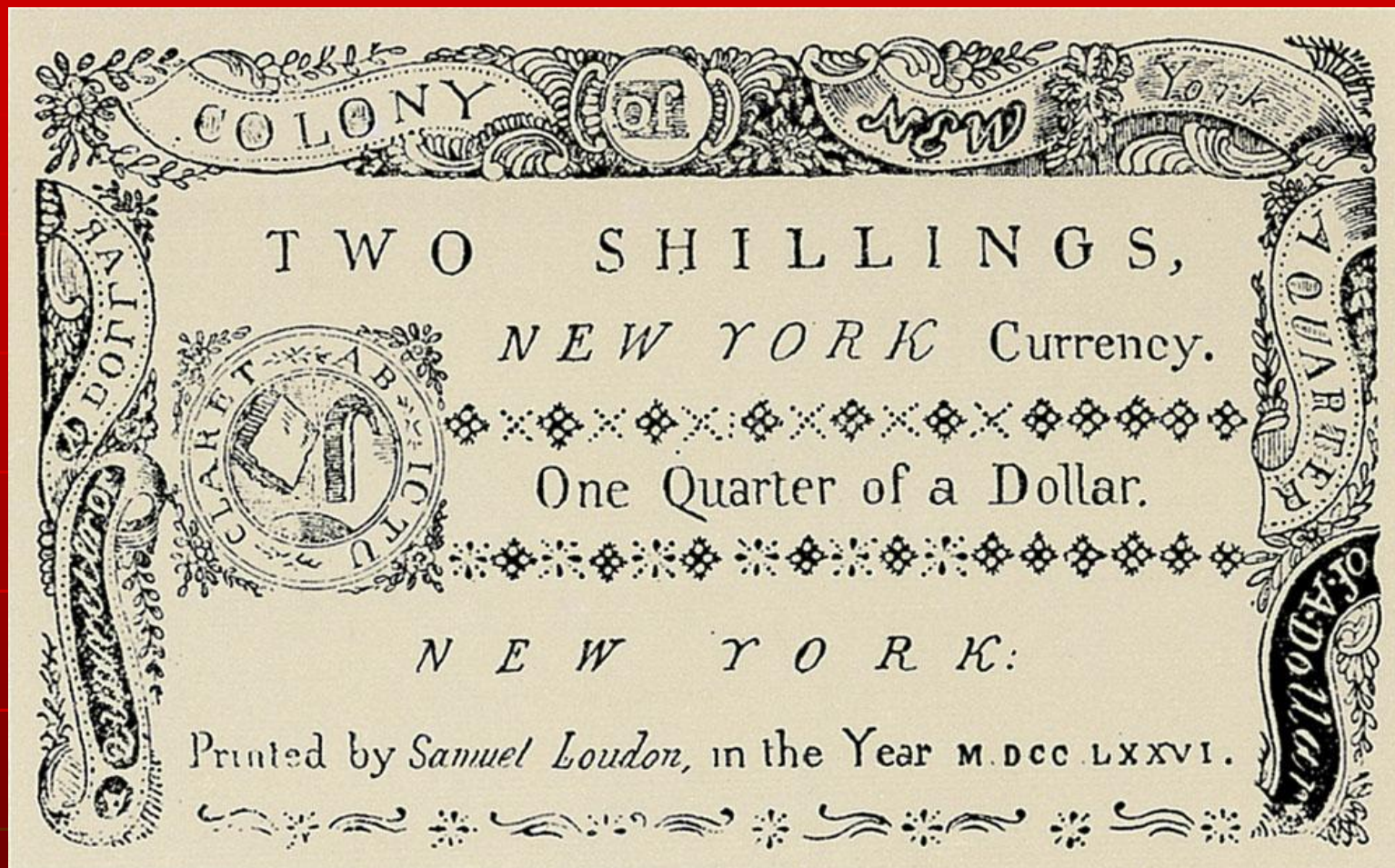
The Debate on the Meaning of Federalism

- The Supreme Court Speaks
- Nullification
- Dual Federalism
- State Sovereignty



Bowdoin College Museum of Art, Brunswick, Maine,
Bequest of the Honorable James Bowdoin

Thomas Jefferson was an
ardent supporter of states'
rights, p. 54



The Granger Collection

At one time the states could issue their own paper money, such as this New York currency worth 25 cents in 1776. Under the Constitution, this power was reserved to Congress. p. 55



How Things Work

The States and the Constitution

The Framers made some attempt to define the relations between the states and the federal government and how the states were to relate to one another. The following points were made in the original Constitution—before the Bill of Rights was added.

Restrictions on Powers of the States

States may not make treaties with foreign nations, coin money, issue paper currency, grant titles of nobility, pass a bill of attainder or an ex post facto law, or, without the consent of Congress, levy any taxes on imports or exports, keep troops and ships in time of peace, or enter into an agreement with another state or with a foreign power.

[Art. I, sec. 10]

Guarantees by the Federal Government to the States

The national government guarantees to every state a “republican form of government” and protection against foreign invasion and (provided the states request it) protection against domestic insurrection.

[Art. IV, sec. 4]

An existing state will not be broken up into two or more states or merged with all or part of another state without that state’s consent.

[Art. IV, sec. 3]

Congress may admit new states into the Union.

[Art. IV, sec. 3]

Taxes levied by Congress must be uniform throughout the United States: they may not be levied on some states but not others.

[Art. I, sec. 8]

The Constitution may not be amended to give states unequal representation in the Senate.

[Art. V]

Rules Governing How States Deal with Each Other

“Full faith and credit” shall be given by each state to the laws, records, and court decisions of other states. (For example, a civil case settled in the courts of one state cannot be retried in the courts of another.)

[Art. IV, sec. 1]

The citizens of each state shall have the “privileges and immunities” of the citizens of every other state. (No one is quite sure what this is supposed to mean.)

[Art. IV, sec. 2]

If a person charged with a crime by one state flees to another, he or she is subjected to extradition—that is, the governor of the state that finds the fugitive is supposed to return the person to the governor of the state that wants him or her.

[Art. IV, sec. 2]

Governmental Structure



The Granger Collection, New York

Federalism has permitted experimentation. Women were able to vote in the Wyoming Territory in 1888, long before they could do so in most states, p. 62

- Federalism: Good or Bad?
- Increased Political Activity
- What the States can do
 - Initiative
 - Referendum
 - Recall

Landmark Cases

Federal-State Relations

- **McCulloch v. Maryland (1819):** The Constitution's "necessary and proper" clause permits Congress to take actions (in this case, to create a national bank) when it is essential to a power that Congress has (in this case, managing the currency).
- **Gibbons v. Ogden (1824):** The Constitution's commerce clause gives the national government exclusive power to regulate interstate commerce.
- **Wabash, St. Louis and Pacific Railroad v. Illinois (1886):** The states may not regulate interstate commerce.
- **United States v. Lopez (1995):** The national government's power under the commerce clause does not permit it to regulate matters not directly related to interstate commerce (in this case, banning firearms in a school zone).

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Federal-State Relations

- Grants-In-Aid
- Meeting National Needs
- The Intergovernmental Lobby
- Categorical Grants
- Rivalry Among the States



David Young-Wolff/PhotoEdit

Some of the nation's greatest universities, such as the University of California at Los Angeles, began as land-grant colleges. p. 64

Table 3.1 Federal Grants to State and Local Governments (2008)

The federal government spent \$476 billion on grants to states in 2008.

Among the biggest items:

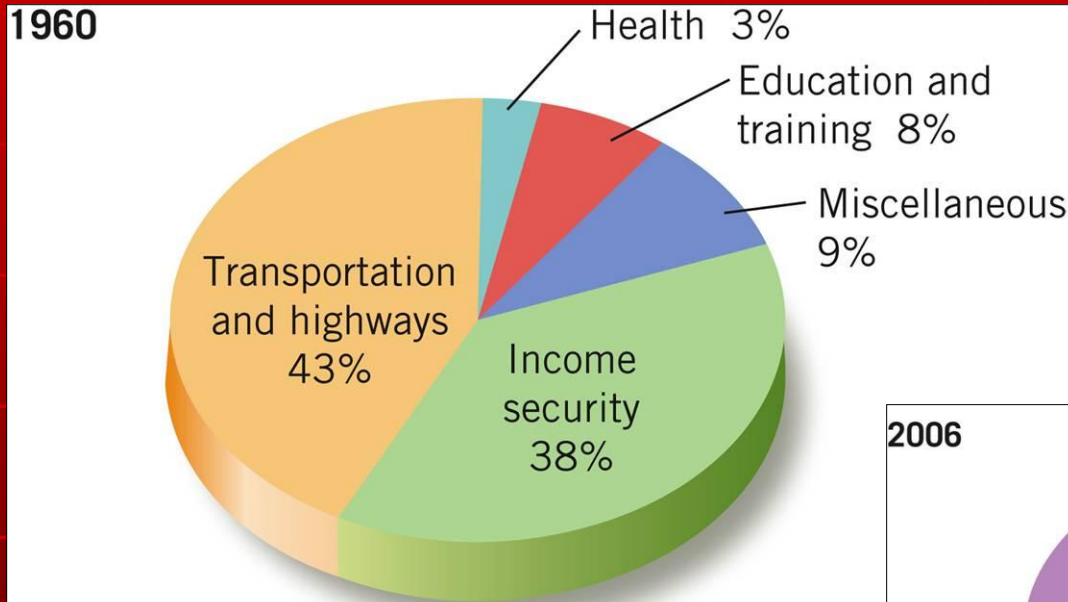
Medicaid	\$215.6 billion
Education and training	57.2 billion
Highways	38.8 billion
Community development	17.1 billion
Temporary Assistance to Needy Families	17 billion

Source: Budget of the U.S. Government, Fiscal Year 2009.

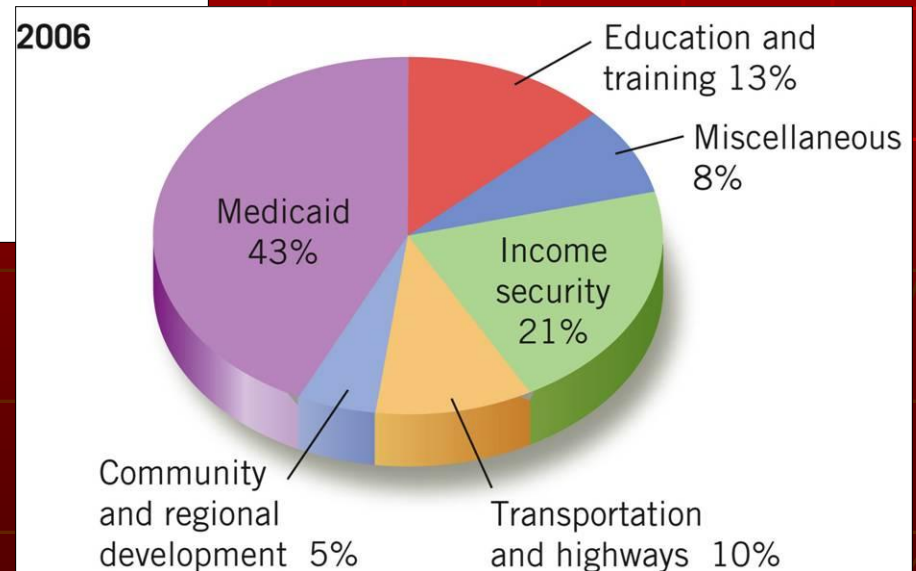


New York police check backpacks as passengers enter a ferry when the city was on high alert in 2005. p. 65

Figure 3.2 The Changing Purpose of Federal Grants to State and Local Governments



Note: Totals may not add up to 100 percent because of rounding.
Source: *Budget of the U.S. Government, Fiscal Year 2007*, table 12.1.



Federal Aid and Federal Control

- Mandates
- Conditions of Aid



Mario Tama/Getty Images

A Devolution Revolution?

- Devolution shifts many federal functions to the states.
- Most Americans favor devolution, but not if that means cuts in government programs that benefit most citizens.
- What have been the consequences of devolution?



Robin Nelson/Corbis

A woman who heads a faith-based organization works with a jailed teenager to help him overcome his problems. p. 70

Congress and Federalism

WHY IS THERE SO MUCH POLITICAL AND POLICY DIVERSITY IN THE UNITED STATES?

- State and local governments have retained certain constitutional protections.
- Members of Congress think of themselves as representatives of localities *to* Washington, not as representatives *of* Washington to the localities.

WHAT WOULD YOU DO?

MEMORANDUM

To: *Representative Sue Kettl*

From: *Grace Viola, chief of staff*

Subject: *Faith-based preemption bill*

As requested, I have researched state-funding policies. The main finding is that the state laws do hobble getting federal dollars to the religious groups that have been doing most of the actual recovery work. The immediate question before you is whether to sign on as a co-sponsor to the bill.

WHAT WOULD YOU DO?

Arguments for:

1. Congress has already passed at least four laws that permit federal agencies to fund faith-based groups that deliver social services, subject to prohibition against using any public funds for proselytizing or such.
2. The faith-based organizations functioned as first responders when the hurricanes hit, and have since supplied billions of dollars worth of manpower and materials.
3. Some legal experts say that the existing laws already preempt the contrary state ones; besides, it polls great (75 percent in favor nationally, even higher in your district).

WHAT WOULD YOU DO?

Arguments against:

1. You have traditionally argued in favor of states' rights and the separation of church and state.
2. Praiseworthy though their civic good works have been, some of the religious groups involved in the cleanup and recovery have beliefs and tenets that seem discriminatory (a few even refuse to hire people of other faiths).
3. Expressly preempting more state laws could come back to bite us when it comes to state laws that we favor over contrary federal ones.

WHAT WOULD YOU DO?

Your decision:

Support bill?

Oppose bill?